

MINUTES OF THE
ARIZONA BOARD OF TECHNICAL REGISTRATION

April 27, 2010

9:30 AM

OPEN SESSION

1. **CALL TO ORDER** – The meeting of the Board of Technical Registration was called to order at 9:31 AM by Chair Karen Cesare.
2. **ROLL CALL** - Board Members in Attendance: Karen Cesare, Harold “Hal” Epperson, Susan Schaefer Kliman, David Komm, Claudia Perchinelli, Howell “Chip” Shay, Erick Weiland, John Willett and Laurie Woodall. Board Staff: Ronald Dalrymple, Melissa Cornelius, Kathryn Fuller, Lisa Vardian, Manuel Maltos, and Cassie Goodwin. Assistant Attorney Generals: Mona Baskin and Montgomery Lee.
3. **CALL TO THE PUBLIC** – No members of the public addressed the Board.
4. **MINUTES**
 - A. Adopt the March 23, 2010 Minutes – Mr. Shay moved to adopt the March 23, 2010 minutes. Mr. Weiland seconded. Dr. Schaefer Kliman requested a minor correction. Mr. Shay amended his motion to include the minor correction. Mr. Weiland seconded. Motion Carried. (Mr. Willett was not present for this vote.)
5. **ENFORCEMENT MATTERS**

Review, Consideration and Possible Vote on the following:

 - A. Proposed Dismissals
 1. M09-100, John P. Murphy, P.E. (Civil) #13786 – Howard Standage, John Murphy, and his attorney David O’Daniel, Esq. addressed the Board. Mr. Shay moved to dismiss the matter. Dr. Schaefer Kliman seconded. After discussion, motion Carried.
 - B. Proposed Letters of Concern
 1. M09-082, Geoffrey K. Brimhall, Land Surveyor #33308 – Allen Gookin addressed the Board. Mr. Shay recused himself, stating a Conflict of Interest. Mr. Weiland moved to issue Respondent a Letter of Concern regarding properly identifying source documents on future surveys and recording the survey with the county recorder. Ms. Perchinelli seconded. After discussion, Motion Carried. (Ms. Woodall voted Nay.)

C. Proposed Consent Agreements

1. M09-113, Jos. F. Simanek Architect, Inc. – Mr. Shay moved to accept Respondent's signed Consent Agreement encompassing the following Order: Letter of Reprimand. Mr. Epperson seconded. After discussion, Motion Carried.

2a. M09-038, Castro Engineering

b. M09-042, Castro Engineering

c. M09-053, Castro Engineering

d. M09-097, Castro Engineering

e. M09-130, Castro Engineering

The Board took action on Items 5.C.2a-e in one action. Ms. Perchinelli recused herself, stating a Conflict of Interest. She then addressed the Board as a member of the public and not as a Board member. Mr. Shay moved to accept Respondent's signed Consent Agreement encompassing the following Order: Letter of Reprimand. After discussion, Motion Failed.

Mr. Komm moved to redirect Staff to obtain a signed Consent Agreement to include financial restitution and a Letter of Reprimand. In the event no signed Consent Agreement is obtained then the matter is to be placed on the May 25, 2010 Agenda for discussion of possible revocation of Mr. Castro's registration. Mr. Willett seconded. After discussion, Motion Carried.

At 11:00 AM the Board took a five minute break and returned to session at 11:05 AM.

6. HOME INSPECTOR ENFORCEMENT MATTERS

Review, Consideration, and Possible Vote on the following:

A. Evaluation of Applications for Examination and/or Possible Granting of Registration or Certification:

1. HI10-023, Antonio X. Chavez, Applicant #100028 – Mr. Chavez addressed the Board. Mr. Epperson moved to grant Mr. Chavez's application for home inspector certification. Mr. Shay seconded. After discussion, Motion Carried.

2. HI10-024, Miguel M. Brambila, Applicant #100204 – Mr. Shay moved to grant Mr. Brambila's application for home inspector certification. Ms. Woodall seconded. After discussion, Motion carried (Mr. Komm voted Nay.)

3. HI10-026, Steven R. Dupps, Applicant #100320 – Mr. Dupps addressed the Board. Mr. Epperson moved to grant Mr. Dupps's application for home inspector certification. Mr. Willett seconded. After discussion, Motion Carried.

B. Proposed Letters of Concern

1. HI09-023, Travis L. Turk, CHI #38219 – Travis Turk addressed the Board. Dr. Schaefer Kliman moved to issue Respondent a Letter of Concern regarding listing of adverse conditions in his home inspection reports. Mr. Komm seconded. After discussion, Motion Carried.

C. Review, Consideration, and Possible Vote on the following:

1. HI10-002, Robert Jeglum, CHI #42690 – Dr. Schaefer Kliman moved to accept Respondent's signed Consent Agreement encompassing the following Order: Letter of Reprimand; Administrative Penalty: Respondent shall pay an administrative penalty in the amount of \$1,000.00; Probation: Respondent's home inspector certification is placed on probation until he has completed the following: Restitution: Pay restitution to John and Leslie Lindbo in the amount of \$255.00 and Open Book Test: take and complete with a passing score of 100% an open book test of the Board statutes and rules within 30-days of the date of the Consent Agreement; and Cost of Investigation: Respondent shall pay cost of investigation in the amount of \$226.00. Mr. Epperson seconded. After discussion, Motion Carried.
2. HI10-009, Guy Minarsich, CHI #42076 – Dr. Schaefer Kliman moved to accept Respondent's signed Consent Agreement encompassing the following Order: Letter of Reprimand; Administrative Penalty: Respondent shall pay an administrative penalty in the amount of \$1,000.00; Probation: Respondent's home inspector certification shall be placed on probation until the following is met: Restitution: Respondent shall pay restitution in the amount of \$285.00 to Kevin Coyle and Open Book Test: Respondent shall complete with a passing score of 100% an open book test of the Board's statutes and rule within 30-days of the date of the Consent Agreement; and Cost of Investigation: Respondent shall pay cost of investigation in the amount of \$187.00. Mr. Komm seconded. After discussion, Motion Carried.
3. HI10-018, John Robert Brendt, III, Nonregistrant – Dr. Schaefer Kliman moved to accept Respondent's signed Consent Agreement encompassing the following Order: Assurance of Discontinuance from the practice of home inspection in Arizona until such time as he has been granted registration by the Board; Civil Penalty: Respondent shall pay a civil penalty in the amount of \$500.00; and Cost of Investigation: Respondent shall pay the cost of investigation in the amount of \$90.00. Mr. Epperson seconded. After discussion, Motion Carried.
4. HI10-020, Patrick Holmes, Nonregistrant – Dr. Schaefer Kliman moved to accept Respondent's signed Consent Agreement encompassing the following Order: Assurance of Discontinuance from the practice of home inspection in Arizona until such time as he has been granted registration by the Board; Civil Penalty: Respondent shall pay a civil penalty in the amount of \$10,000.00; and Cost of Investigation: Respondent shall pay the cost of investigation in the amount of \$250.00. Mr. Epperson seconded. After discussion, Motion Carried.

7. DRUG LABORATORY ENFORCEMENT MATTERS

Review, Consideration, and Possible Vote on the following:

There were no Drug Laboratory Enforcement Matters before the Board.

8. LICENSING MATTERS

Review, Consideration, and Possible Vote on the following:

- A. Irimescu, Vlad, Architect Application #080785 – This matter was tabled.

9. LICENSING CONSENT AGENDA

A. Review, Consideration, and Action on the Evaluation Committee and Staff Recommendations for the following (Lists of names available at the Board's office for public review):

1. Granting professional registrations, certifications or in-training designations pursuant to A.R.S. §§ 32-122.01, 32-123;
2. Granting approval to applicants to sit for the professional or in-training examinations pursuant to A.R.S. § 32-122 and further, granting registrations upon Applicants' successful completion of the exams;
3. Administratively closing professional or in-training applications pursuant to A.R.S. §§ 32-122, 32-122.01(A); A.A.C. R4-30-204(E);

Mr. Epperson moved that, with the exception of applicants, under 9.A.3, William Turner, Application #090720 and David Takeuchi, AIT Application #020207 the applicants listed in 9.A.1 be granted professional registration, certification, or in-training designation; that the applicants listed in 9.A.2 be approved to sit for the professional or in-training examinations, and be granted registration in the appropriate category upon successful completion of the exams and a staff determination of continued eligibility; and the applicants listed in 9.A.3 be administratively closed based upon the applicants' failure to meet the Board's licensing requirements. Mr. Willett seconded. After discussion, Motion Carried.

10. POLICY MATTERS

Review, Consideration, and Possible Vote on the following:

- A. Ratification of previously granted registrations, certification, and in-training designations.

Dr. Schaefer Kliman moved that: after reviewing records, facts, and circumstances surrounding the Board's practice of allowing Board staff to issue licenses/registrations, certificates, and designations to architects, engineers, assayers, land surveyors, landscape architects, geologists; home inspectors, remediation specialists, drug laboratory site remediation firms, supervisors and workers, the Board hereby ratified all registrations, certificates, and designations issued under that practice. Mr. Shay seconded. After discussion, Motion Carried.

- B. Continued discussion and possible action regarding the issue of delegated authority, specifically:

1. Whether the Executive Director can administratively grant, under direction from the Board, licenses to those applicants with Board preapproved national council records from NCEES, NCARB, and CLARB;

2. Whether the Executive Director can continue to exercise Board delegated responsibilities such as:
 - a. granting certifications for Home Inspectors and Drug Lab Remediation Supervisors and Workers;
 - b. granting In-Training designations;
 - c. closing investigations;
 3. Whether the Executive Director can hold EAC Meetings;
 4. Whether the Executive Director can notify the Secretary of State and clerk of the Board of Supervisors of each county in the state of the suspension or revocation of a certificate or of the reissuance of a suspended or revoked certificate;
 5. Whether the Executive Director can continue to deposit all civil penalties collected into the State's General Fund.
- C. Whether to ask the Attorney General's Office for a formal legal opinion regarding the legality of the delegation of authority to the Executive Director and related questions.

Assistant Attorneys General Mona Baskin and Montgomery Lee addressed the Board and were available to provide guidance in the above Items 10.B and 10.C. After discussion:

The Board took action on Items 10.B.1-2.a.-b. in the following motion: Mr. Shay moved that the Board adopt the policy that staff shall prepare a Consent Agenda for NCARB and NCEES packages for the Board for granting and licensure issued upon Board vote. Ms. Woodall seconded. After discussion, Motion Carried.

The Board took no action Items 10.B.2.c, 3-5 and 10.C, but directed Staff to obtain advice from the Attorney General's office on the issues and bring them back for Board action at the May meeting if necessary.

D. Board Nomination of Erick Weiland, P.G., to run for and serve as Secretary of ASBOG.

Mr. Komm moved to nominate Erick Weiland, P.E., to run for and serve as Secretary of ASBOG. Dr. Schaefer Kliman seconded. After discussion, Motion Carried.

11. Review, Consideration, and Possible Vote on the following:

- A. Registrations that have been expired for 3 years and recommended to be lapsed: (List of names available at the Board's office for public review.)
- B. Certifications that have been expired for 1 year and recommended to be lapsed: (List of names available at the Board's office for public review.)

Mr. Epperson moved to lapse the registrations listed in 11.A and certificates listed in 11.B. Ms. Perchinelli seconded. Motion Carried.

12. DIRECTOR'S REPORT – Mr. Dalrymple advised:

Finances:

As of December 31, 2009, the Board's revenue for Fiscal Year 2010 totals \$1,378,927 and the expenditures total \$1,204,873. It is currently estimated that the Board's revenue for FY10 will exceed expenditures by approximately \$300,000.

The Board is still in the process of contracting with Lexis/Nexus to locate delinquent registrants with invalid record addresses and also to assist investigators. The Attorney General's office is reviewing the contract and related explanatory documents with the intent to inform the Board whether it can be considered as an agency able to obtain necessary confidential information.

Legislation:

The legislature is still considering the proposed Home Inspector bill adding pools and spas to the items to be inspected.

The Board was unable to find a sponsor for the meth lab remediation bill after the Attorney General's Office decided they did not want to sponsor a bill that had a financial impact in this legislative session.

Computer System:

The Board continues to meet with representative from the Government Information Technology Agency ("GITA"), NIC and CAVU in an attempt to replace the AS/400 system with a modern licensing system.

As of March, the Arizona Department of Administration is billing the Board for all expenses associated with the AS/400 since the Board is the only agency on the system. The normal billing will be approximately \$72,000 annually, however, the Board will also be held responsible for any additional programming and repair costs associated with the system.

13. BOARD CHAIR'S REPORT – Ms. Cesare advised she has nothing new to report.

14. STANDING COMMITTEE REPORT

A. Legislation and Rules Committee ("L&R") – Dr. Schaefer Kliman advised the next meeting is scheduled to begin at the end of this meeting and a full report will be provided at the May 25, 2010 meeting.

B. Budget Committee – Nothing new to report.

C. Home Inspector Rules and Standards Committee ("HIRS") – Mr. Shay advised the HIRS met on April 7, 2010 regarding the following: 1. Agreed that inspections of the water heater normal operating controls is not a part of the Arizona Minimum Standards of Practice; 2. American Society of Home Inspectors ("ASHI") expects the Pool and Spa Inspection bill to pass the legislature in September 2010; 3. Agreed to adopt a Substantive Policy Statement allowing for a home inspector to provide

limited inspections, below the standard of a full inspection, upon full disclosure to the client; and present it to the L&R Committee; 4. Industry activities relating to home inspector services can be found at the ASHI, National Society of Home Inspectors ("NAHI") and Board's web sites; 5. Revisions to the home inspection report checklist supplement should also include an aluminum wiring report. There will be more discussion on this issue at the next meeting; 6. Aluminum Wiring Report information should be included and will be discussed more at the next meeting; and 7. Statute of Limitations was discussed and home inspectors should seek advice from a business advisor or legal counselor.

D. Environmental Remediation Rules and Standards Committee ("ERRS") – Ms. Vardian advised the Committee approved a training course study guide and test for the On-site Supervisors to meet the requirements of the 2-hour annual refresher training course. The test is open book and is to be placed on the Board's web site for the On-site Supervisor to download, complete, and submit to the Board with a notarized signature. The Committee continues to discuss proposed rule changes to the Standards for when the current moratorium on rule changes is lifted.

15. BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES

A. National Council of Examiners for Engineering and Surveying ("NCEES") – Ms. Perchinelli advised she is unable to attend the Western Zone meeting in Salt Lake City, Utah next month but Mr. Epperson will be attending as will Mr. Dalrymple and Ms. Cornelius. Mr. Komm advised he was asked, and agreed, to participate on a panel at the NCEES meeting in Orlando, Florida, scheduled for July 2010. They are interested in the fact that Arizona allows engineers to take the P.E. exam after two years of experience, not four, as is the case in most other states. He will provide a report after attending the meeting.

B. National Council of Architectural Registration Boards ("NCARB") – Dr. Schaefer Kliman advised she attended the Western Council of Architect Registration Boards Regional Zone ("WCARB") meeting in Boston last month. NCARB is looking to hire a new CEO so it is going through their entire process. There is concern at the regional level that states are dealing with financial issue. A couple of states were not represented at the meeting due to travel moratoriums so there were some discussions on funding and how to deal with it. She has been elected to the executive committee of WCARB for a two year term and that means, starting next spring, WCARB will be funding her travel to the meetings so the Board can send another delegate.

C. Council of Landscape Architectural Registration Boards ("CLARB") – Nothing new to report. The next meeting isn't until August 2010.

D. National Association of State Boards of Geology ("ASBOG") – Mr. Weiland advised ASBOG held its spring test exam meeting in Raleigh, North Carolina. He will have a full report next month as he would like to talk about how the new TASK analysis went in great detail. They did review the April test results and threw out several questions that did not perform well. They analyzed the test that

will be given next October, which will be based upon the new TASK analysis so the questions will be based on the revised test analysis which will be discussed next month. The new TASK analysis was done both in the U.S. and Canada, by registered, non-registered, and academic geologists so they have information from all those different sectors which is very unusual. They found that the practices for registered geologists were pretty much the same across the country which is a good thing for ASBOG. A big item that came out of working with the Canadians on this, was the challenges of reciprocity when they start using the ASBOG test.

16. FUTURE BOARD MEETINGS – Tuesday, May 25, 2010 at 9:30 AM.

17. FUTURE AGENDA ITEMS

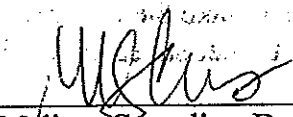
A. Sealing of As-Built's by P.E.'s when the P.E. did not oversee the construction (A.R.S. § 32-152(A)(2)).

18. ADJOURNMENT – Meeting adjourned at 12:56 PM.

ARIZONA STATE BOARD OF TECHNICAL REGISTRATION



Karen M. Cesare, Chair



Melissa Cornelius, Deputy Director